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Attorney for Plaintiff Pro Hac Vice

HPS/as

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

EUGENE DIVISION

JUANITA E. KEMP,

Plaintiff,

v.

KILOLO KIJAKAZI,

Acting Commissioner of Social Security,

Defendant.

Case No.: 6:22-cv-00461-HL

STIPULATION AND ORDER FOR
THE AWARD AND PAYMENT
OF ATTORNEY FEES
PURSUANT TO THE EQUAL
ACCESS TO JUSTICE ACT, 28
U.S.C. § 2412(d)

On April 14, 2023, this Court issued an order reversing the final decision of the Defendant, Kilolo Kijakazi, the Acting Commissioner of Social Security (Commissioner), with a remand for rehearing, 42 U.S.C. § 405(g) (sentence four); judgment was entered.

In the interest of administrative and judicial economy, the parties have agreed to stipulate that an award of FIVE THOUSAND ONE HUNDRED EIGHTY-TWO DOLLARS AND THIRTY-THREE CENTS (\$5,182.33) in attorney fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), is reasonable. This award is without prejudice to Plaintiff's

1 right to seek attorney's fees under section 206(b) of the Social Security Act, 42 U.S.C. §
2 406(b), subject to the offset provisions of the EAJA. However, this award shall constitute a
3 complete release from and bar to any claims Plaintiff may have relating to EAJA fees and
4 costs. Further, such award shall not be used as precedent in any future cases, nor be construed
5 as a concession by the Commissioner that the original administrative decision denying benefits
6 to Plaintiff was not substantially justified.

7 After the Court issues an order for EAJA fees to Plaintiff, the Government will
8 consider the matter of Plaintiff's assignment of EAJA fees to Harvey P. Sackett ("Counsel").
9 Pursuant to *Astrue v. Ratliff*, 560 U.S. 586 (2010), the ability to honor an assignment will
10 depend on whether the fees are subject to any offset allowed under the United States
11 Department of the Treasury's Offset Program. After the order for EAJA is entered, the
12 Government will determine whether they are subject to offset. Fees shall be made payable to
13 Plaintiff, but if the Department of Treasury determines Plaintiff does not owe a federal debt,
14 then the Government shall cause the payment of fees, expenses, and costs to be made payable
15 directly to Counsel, pursuant to the assignment executed by Plaintiff. Any payments made shall
16 be delivered and made payable to Counsel.

17 Accordingly, Defendant agrees to pay Plaintiff \$5,182.33 in attorney's fees.

18 All parties whose signature lines appear in this document have consented to its filing.
19 This award is without prejudice to the rights of Sackett and Associates and/or Harvey P.
20 Sackett to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the
21 savings clause provisions of the EAJA.
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1 Dated: June 29, 2023

SACKETT AND ASSOCIATES

2 By: /s/ HARVEY P. SACKETT
3 HARVEY P. SACKETT
4 Attorney for Plaintiff Pro Hac Vice
5 JUANITA E. KEMP

6 Dated: June 29, 2023

NATALIE K. WIGHT
United States Attorney

7 By: /s/MICHAEL J. MULLEN
8 MICHAEL J. MULLEN
9 Special Assistant United States Attorney
10 Attorney for Defendant
11 [*As authorized by email on 6/29/23]

12 **ORDER**

13 Pursuant to the stipulation, IT IS SO ORDERED.

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15 Dated: June 30, 2023

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17 HON. ANDREW HALLMAN
18 United States Magistrate Judge
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